

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless, U-3060, U-4135 and U-4314, and related entities (collectively "Cingular") to determine whether Cingular has violated the laws, rules and regulations of this State in its sale of cellular telephone equipment and service and its collection of an Early Termination Fee and other penalties from consumers.

Investigation 02-06-003  
(Filed June 6, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
DENYING MOTION TO COMPEL DISCOVERY**

By joint motion filed on January 21, 2005, the Commission's Consumer Protection and Safety Division (CPSD) and Utility Consumers' Action Network (UCAN) have sought to compel discovery regarding the restitution plan that Cingular Wireless (Cingular) has prepared under the order of Decision (D.) 04-09-062. Specifically, CPSD and UCAN want to (1) obtain the workpapers and other documents on which the plan is based and (2) depose the individual most personally knowledgeable about the information gathering that underlies the plan. The motion and its attachments establish that Cingular has produced the spreadsheet used to develop its customer reparation calculations as well as other information responsive to discovery propounded by CPSD and UCAN.

I will deny the motion to compel. D.04-09-062l does not create a formal restitution plan phase, but charges the Commission's Telecommunications

Division to monitor implementation of the plan. CPSD and UCAN have obtained sufficient information to register their concerns, those concerns have been made known to the Telecommunications Division, and the Division can pursue any matters it sees fit in order to carry out its charge.<sup>1</sup> This ruling is issued under the authority of Rule 45(h) of the Commission's Rules of Practice and Procedure, which permits a ruling on a motion before responses or replies are filed.

**IT IS RULED** that the January 21, 2005 motion of the Commission's Consumer Protection and Safety Division and Utility Consumers' Action Network to compel discovery is denied.

Dated January 25, 2005, at San Francisco, California.

/s/ JEAN VIETH  
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Jean Vieth  
Administrative Law Judge

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<sup>1</sup> By separate ruling issued today I have granted the joint CPSD/UCAN motion to file comments on the restitution plan and have referred those comments to the Director of the Telecommunications Division

## CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties who have provided an electronic mail address, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Compel Discovery on all parties of record in this proceeding or their attorneys of record.

Dated January 25, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

## N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.